

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 13, 2022

1:33 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

Senator Mike Shower, Vice Chair
Senator Shelley Hughes

COMMITTEE CALENDAR

SENATE BILL NO. 39

"An Act relating to elections; relating to voter registration; relating to ballots and a system of tracking and accounting for ballots; establishing an election offense hotline; designating as a class A misdemeanor the collection of ballots from other voters; designating as a class C felony the intentional opening or tampering with a sealed ballot, certificate, or package of ballots without authorization from the director of the division of elections; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 207

"An Act restricting the release of certain records of convictions; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 39

SHORT TITLE: BALLOT CUSTODY/TAMPERING; VOTER REG; MAIL
SPONSOR(s): SENATOR(s) SHOWER

| | | |
|----------|-----|---------------------------------|
| 01/25/21 | (S) | PREFILE RELEASED 1/15/21 |
| 01/25/21 | (S) | READ THE FIRST TIME - REFERRALS |
| 01/25/21 | (S) | STA, JUD |

| | | |
|----------|-----|---|
| 01/26/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 01/26/21 | (S) | -- MEETING CANCELED -- |
| 01/28/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 01/28/21 | (S) | Heard & Held |
| 01/28/21 | (S) | MINUTE(STA) |
| 02/02/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 02/02/21 | (S) | Heard & Held |
| 02/02/21 | (S) | MINUTE(STA) |
| 02/09/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 02/09/21 | (S) | Scheduled but Not Heard |
| 02/11/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 02/11/21 | (S) | Heard & Held |
| 02/11/21 | (S) | MINUTE(STA) |
| 02/16/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 02/16/21 | (S) | Heard & Held |
| 02/16/21 | (S) | MINUTE(STA) |
| 02/18/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 02/18/21 | (S) | -- MEETING CANCELED -- |
| 02/25/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 02/25/21 | (S) | Heard & Held |
| 02/25/21 | (S) | MINUTE(STA) |
| 03/16/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 03/16/21 | (S) | Heard & Held |
| 03/16/21 | (S) | MINUTE(STA) |
| 03/18/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 03/18/21 | (S) | Scheduled but Not Heard |
| 03/30/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 03/30/21 | (S) | Scheduled but Not Heard |
| 04/01/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 04/01/21 | (S) | -- MEETING CANCELED -- |
| 04/08/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 04/08/21 | (S) | Scheduled but Not Heard |
| 04/15/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 04/15/21 | (S) | Heard & Held |
| 04/15/21 | (S) | MINUTE(STA) |
| 04/20/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 04/20/21 | (S) | -- MEETING CANCELED -- |
| 04/21/21 | (S) | STA WAIVED PUBLIC HEARING NOTICE, RULE 23 |
| 04/22/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 04/22/21 | (S) | Heard & Held |
| 04/22/21 | (S) | MINUTE(STA) |
| 04/22/21 | (S) | STA AT 6:00 PM BUTROVICH 205 |
| 04/22/21 | (S) | Heard & Held |
| 04/22/21 | (S) | MINUTE(STA) |
| 05/04/21 | (S) | STA AT 3:30 PM BUTROVICH 205 |
| 05/04/21 | (S) | Moved CSSB 39(STA) Out of Committee |
| 05/04/21 | (S) | MINUTE(STA) |

| | | |
|----------|-----|---------------------------------------|
| 05/07/21 | (S) | STA RPT CS 1DP 1DNP 2NR 1AM NEW TITLE |
| 05/07/21 | (S) | DP: SHOWER |
| 05/07/21 | (S) | DNP: KAWASAKI |
| 05/07/21 | (S) | NR: COSTELLO, REINBOLD |
| 05/07/21 | (S) | AM: HOLLAND |
| 05/07/21 | (S) | JUD AT 1:30 PM BUTROVICH 205 |
| 05/07/21 | (S) | Heard & Held |
| 05/07/21 | (S) | MINUTE(JUD) |
| 05/08/21 | (S) | JUD AT 10:00 AM BUTROVICH 205 |
| 05/08/21 | (S) | Heard & Held |
| 05/08/21 | (S) | MINUTE(JUD) |
| 04/08/22 | (S) | JUD AT 1:30 PM BUTROVICH 205 |
| 04/08/22 | (S) | Heard & Held |
| 04/08/22 | (S) | MINUTE(JUD) |
| 04/11/22 | (S) | JUD AT 1:30 PM BUTROVICH 205 |
| 04/11/22 | (S) | Heard & Held |
| 04/11/22 | (S) | MINUTE(JUD) |
| 04/13/22 | (S) | JUD AT 1:30 PM BUTROVICH 205 |

WITNESS REGISTER

SCOTT OGAN, Staff
 Senator Mike Shower
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Explained amendments on behalf of the sponsor of SB 39.

ACTION NARRATIVE

[1:33:19 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Myers, Kiehl, and Chair Holland.

SB 39-BALLOT CUSTODY/TAMPERING; VOTER REG; MAIL

[1:34:17 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 39 "An Act relating to elections; relating to voter registration; relating to ballots and a system of tracking and accounting for ballots; establishing an election offense hotline; designating as a class A misdemeanor the collection of ballots from other voters; designating as a class C felony the intentional opening or tampering with a sealed ballot, certificate, or package of ballots without authorization from the director of the division of elections; and providing for an effective date."

CSSB 39(STA) was before the committee].

[SB 39 was previously heard on 5/7/21, 5/8/21, 4/8/22 and 4/11/22. Public testimony was closed on 5/8/21. The committee adopted Version D on 4/8/22.]

[1:34:52 PM](#)

SENATOR MYERS moved to adopt Amendment 1, work order 32-LS1601\D.34.

32-LS0204\D.34
Klein
4/12/22

AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR MYERS
TO: CSSB 39(JUD), Draft Version "D"

Page 4, lines 15 - 16:

Delete **"a voter's choice to register as nonpartisan, as undeclared, or as affiliated with a political party or political group and"**

Page 11, line 18, following "witnessed.":

Insert **"An envelope may not identify a voter's party affiliation."**

CHAIR HOLLAND objected for discussion purposes.

[1:35:00 PM](#)

SENATOR MYERS explained that Amendment 1 would preserve ballot secrecy. When a person registers to vote and also fills out their absentee ballot, the ballot envelope can't indicate any political affiliation.

CHAIR HOLLAND asked whether this pertained only to absentee ballots. He surmised that the envelope would list the voter's identifiers but no one could sort the ballots by party affiliation.

SENATOR MYERS agreed. He said the envelope would list the driver's license or other personal identifiers.

CHAIR HOLLAND related his understanding that once the division validates the voter's identification, the ballot would be removed, separated from the envelope, and counted.

SENATOR MYERS answered yes.

[1:37:44 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 1 was adopted.

[1:37:58 PM](#)

SENATOR KIEHL moved to adopt Amendment 2, work order 32-LS1601\D.17.

32-LS0204\D.17
Ambrose/Klein
4/11/22

AMENDMENT 2

OFFERED IN THE SENATE BY SENATOR KIEHL
TO: CSSB 39(JUD), Draft Version "D"

Page 8, line 30:
Delete "continuously"

[1:38:06 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:38:12 PM](#)

SENATOR KIEHL explained Amendment 2 would ensure that the election hotline doesn't have to be manned continuously. The bill currently states that an election worker would need to be available at all hours. However, he discussed this provision with the sponsor, who envisioned that the hotline would only be available when the polls were open. Thus, Amendment 2 would strike "continuously."

[1:39:32 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 2 was adopted.

[1:39:45 PM](#)

SENATOR KIEHL moved to adopt Amendment 3, work order 32-LS1601\D.18

AMENDMENT 3

OFFERED IN THE SENATE BY SENATOR KIEHL
TO: CSSB 39(JUD), Draft Version "D"

Page 9, lines 1 - 2:
Delete "printed on a sticker and"

[1:39:53 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:40:02 PM](#)

SENATOR KIEHL explained Amendment 3 would remove the requirement for posting the election hotline number on a sticker because the division could easily print it on the ballot envelope or other voter materials. It is less expensive than a sticker.

[1:40:33 PM](#)

CHAIR HOLLAND related his understanding it would just expand the opportunities for posting the election hotline number.

SENATOR KIEHL agreed.

[1:40:44 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 3 was adopted.

[1:41:04 PM](#)

SENATOR KIEHL moved to adopt Amendment 4, work order 32-LS1601\D.13.

AMENDMENT 4

OFFERED IN THE SENATE BY SENATOR KIEHL

TO: CSSB 39(JUD), Draft Version "D"

Page 6, line 14, through page 7, line 27:

Delete all material and insert:

"* **Sec. 12.** AS 15.10.170(a) is amended to read:

(a) The precinct party committee, where an organized precinct committee exists, or the party district committee where no organized precinct committee exists, or the state party chairperson where neither a precinct nor a party district committee exists, may appoint one or more [PERSONS AS] watchers in each precinct and counting center for any election. A [EACH] candidate may appoint one or more watchers for each precinct or counting center in the candidate's respective district or the state for any election. An [ANY] organization or organized group that sponsors or opposes a ballot proposition [AN INITIATIVE, REFERENDUM,] or recall may have one or more [PERSONS AS] watchers at the polls and counting centers after first obtaining authorization from the director. A state party chairperson, a precinct party committee, a party district committee, or a candidate may not have more than one watcher on duty at a time in any precinct or counting center. A watcher must be a United States citizen. The watcher may be present at a position inside the place of voting or counting that affords a full view of all action of the election officials taken from the time the polls are opened until the ballots are finally counted and the results certified by the election board or the data processing review board. The election board or the data processing review board may require each watcher to present written proof showing appointment by the precinct party committee, the party district committee, the organization or organized group, or the candidate the watcher represents and that is signed by the respective chairperson of the precinct party committee, party district committee, state party chairperson, organization or organized group, or candidate."

Renumber the following bill sections accordingly.

Page 26, line 11, following "**Sec. 56.**":

Insert "AS 15.10.170(b);"

Page 26, line 15:

Delete "sec. 46"
Insert "sec. 44"

Page 26, line 16:
Delete "sec. 47"
Insert "sec. 45"
Delete "sec. 48"
Insert "sec. 46"

Page 26, line 17:
Delete "sec. 49"
Insert "sec. 47"

Page 26, line 18:
Delete "sec. 50"
Insert "sec. 48"

Page 26, lines 18 - 19:
Delete "secs. 46 - 50"
Insert "secs. 44 - 48"

Page 26, line 26:
Delete "Section 45"
Insert "Section 43"

Page 26, line 27:
Delete "Section 58"
Insert "Section 56"

Page 26, line 28:
Delete "secs. 59 and 60"
Insert "secs. 57 and 58"

[1:41:09 PM](#)

CHAIR HOLLAND objected for discussion purposes.

[1:41:14 PM](#)

SENATOR KIEHL explained that Amendment 4 would correct the intent by requiring the same rules for poll watchers in all elections. There would not be different rules for primaries or general elections.

[1:42:10 PM](#)

CHAIR HOLLAND removed his objection; he found no further objection, and Amendment 4 was adopted.

[1:42:22 PM](#)

CHAIR HOLLAND moved to adopt Amendment 5, work order 32-LS1601\D.1, on behalf of Senator Shower.

32-LS0204\D.1
Klein
4/11/22

AMENDMENT 5

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 7, line 29, through page 8, line 1:

Delete all material and insert:

"(18) The director shall by regulation require that an official ballot, including an electronic ballot, contain a watermark, seal, or other security identifier. The division may not count a ballot that does not include the watermark, seal, or other security identifier. In this paragraph, "security identifier" includes an election official's signature."

[1:42:33 PM](#)

SENATOR MYERS objected for discussion purposes.

[1:42:44 PM](#)

SCOTT OGAN, Staff, Senator Mike Shower, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, explained that Amendment 5 would revise the rules on ballot identifiers in Section 14. Ballot identifiers are required for electronic ballots. This deletes the option for the director to provide an exception for ballots without identifiers. It also specifies that the ballot identifier can be an election official signature. Thus, it does not absolutely require that there must be a watermark or other identifier on every ballot. There might be cases where the watermark is absent, but the vote would be counted.

[1:43:46 PM](#)

SENATOR KIEHL stated that he was familiar with watermarks and seals on paper. He asked how the Division of Elections would accomplish this with an electronic ballot and if it would have a unique numeric identifier.

[1:44:02 PM](#)

MR. OGAN responded that the sponsor gave the department the discretion to figure out the identifier to use.

[1:44:37 PM](#)

SENATOR KIEHL wondered if ballot serial numbers on an electronic ballot could interfere with ballot secrecy. He asked whether there was a way to retain ballot secrecy or if the voter must sign and check a box that they understand an electronic ballot is not necessarily 100 percent secret.

MR. OGAN deferred to the Division of Elections to confirm, but he related his understanding that voters waive their right to confidentiality.

SENATOR MYERS interjected that the division used QR codes in the 2020 election since they generally are not readable by the human eye. He acknowledged voters do give up some rights to confidentiality with electronic ballots, but he was fairly comfortable with it.

[1:46:14 PM](#)

SENATOR MYERS removed his objection.

[1:46:17 PM](#)

CHAIR HOLLAND found no further objection, and Amendment 5 was adopted.

[1:46:28 PM](#)

CHAIR HOLLAND moved to adopt Amendment 6, work order 32-LS1601\D.39

32-LS0204\D.39
Klein
4/13/22

AMENDMENT 6

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 39(JUD), Draft Version "D"

Page 16, lines 13 - 22:
Delete all material.

Renumber the following bill sections accordingly.

Page 26, line 15:
Delete "sec. 46"
Insert "sec. 45"

Page 26, line 16:
Delete "sec. 47"
Insert "sec. 46"
Delete "sec. 48"
Insert "sec. 47"

Page 26, line 17:
Delete "sec. 49"
Insert "sec. 48"

Page 26, line 18:
Delete "sec. 50"
Insert "sec. 49"

Page 26, lines 18 - 19:
Delete "secs. 46 - 50"
Insert "secs. 45 - 49"

Page 26, line 26:
Delete "Section 45"
Insert "Section 44"

Page 26, line 27:
Delete "Section 58"
Insert "Section 57"

Page 26, line 28:
Delete "secs. 59 and 60"
Insert "secs. 58 and 59"

[1:46:32 PM](#)

SENATOR MYERS objected for discussion purposes.

[1:46:37 PM](#)

MR. OGAN explained Amendment 6 would eliminate Section 37, which would allow the division to count absentee ballots before Election Day. The division can still process absentee ballots and certify voters. One goal of SB 39, Version D, was to have ballots counted earlier to obtain the results sooner. However, he surmised it would not take much time to feed the absentee ballots into the voting machine.

[1:48:30 PM](#)

CHAIR HOLLAND asked for the current law regarding absentee ballot counting.

SENATOR KIEHL related his understanding that the Division of Elections can begin counting at 8 p.m. on Election Day but not before. He said he appreciated the explanation, and while he would like the election results sooner, he does not have any objections to Amendment 6.

[1:49:36 PM](#)

SENATOR MYERS removed his objection.

[1:49:42 PM](#)

CHAIR HOLLAND found no further objection, and Amendment 6 was adopted.

[1:50:20 PM](#)

CHAIR HOLLAND held SB 39 in committee.

[1:50:39 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 1:50 p.m.